

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

SOCIETE DES BAINS DE MER ET DU :  
CERCLE DES ETRANGERS A :  
MONACO, :

Plaintiff, :

vs. :

MGM MIRAGE AND VICTORIA :  
PARTNERS, L.P. :

Defendants. :

-----X

**ECF Case**

Case No. 08-CV-03157(HB)

**DECLARATION OF  
MICHAEL LEVICK**

I, Michael Levick, declare as follows:

1. I am a litigation administrator at the law firm of Quinn Emanuel Urquhart Oliver & Hedges, LLP ("Quinn Emanuel"). I submit this affidavit in support of Plaintiff Société des Bains de Mer et du Cercle des Etrangers à Monaco's ("SBM") opposition to Defendants' Motion to Dismiss, or, in the Alternative, to Transfer This Case to the District of Nevada.

2. Attached as Exhibit 1 is a copy of the World Intellectual Property Organization's ("WIPO") Administrative Panel Decision in Société des Bains de Mer et du Cercle des Etrangers à Monaco v. I Bancorp Europe et al, Case No. D2000-1323, dated January 8, 2001.

3. Attached as Exhibit 2 is an excerpt of the docket for International Bancorp, LLC, et al. v. Société des Bains de Mer et du Cercle des Etrangers à Monaco, Civ. Act. No. 01-115-A, in the Eastern District of Virginia, indicating that the action was initiated on January 24, 2001.

4. Attached as Exhibit 3 is a copy of SBM's Motion for 90 Day Extension of Time to File Notice of Opposition against Defendant Victoria Partners' trademark Application No. 76/284,329 for the mark MONTE CARLO, dated November 8, 2004.

5. Attached as Exhibit 4 is a copy of the Notice of Opposition SBM filed with the Trademark Trial and Appeal Board opposing Defendant Victoria Partners' trademark Application No. 76/284,329 for the mark MONTE CARLO, dated February 10, 2005.

6. Attached as Exhibit 5 is a printout of the results of a search, using the internet-based search engine at <<http://www.kayak.com>>, for roundtrip flights between Paris, France and New York, New York on August 2 and August 9, 2008, sorted by flight duration, indicating the existence of 60 nonstop flights with a minimum travel time of less than eight hours each way.

7. Attached as Exhibit 6 is a printout of the results of a search, using the internet-based search engine at <<http://www.kayak.com>>, for roundtrip flights between Paris, France and Las Vegas, Nevada on August 2 and August 9, 2008, sorted by flight duration, indicating that there are no direct or nonstop flights and that the minimum travel time is 14.5 hours and 12.5 hours for each leg.

8. Attached as Exhibit 7 is a copy of the proposed discovery requests SBM would serve on Defendants should this Court decide that jurisdictional discovery is warranted.

9. On or about May 27, 2008, I signed up to receive special offers via email at <<http://www.montecarlo.com>>. During this process, I provided my personal email account with gmail.com and my home address in New York City. Attached as Exhibit 8 is a copy of an email (redacting my personal email) I received from <[montecarlo@montecarlo.mgg01net](mailto:montecarlo@montecarlo.mgg01net)> on May 27, 2008, thanking me for creating a Guestbook Account and asking me to activate my account.

10. Attached as Exhibit 9 is a copy of an email (redacting my personal email) I received from <[montecarlo@montecarlo.mgg01net](mailto:montecarlo@montecarlo.mgg01net)> on June 11, 2008, entitled "Get Ready for a Summer to Remember at Monte Carlo."

11. Attached as Exhibit 10 is a copy of an email (redacting my personal email) I received from <montecarlo@montecarlo.mgg01net> on June 24, 2008, entitled "Celebrate Fourth of July at Monte Carlo."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 2nd day of July, 2008.



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Michael Levick

# **EXHIBIT 1**



## WIPO Arbitration and Mediation Center

### ADMINISTRATIVE PANEL DECISION

**Société des Bains de Mer et du Cercle des Etrangers à Monaco v. I. Bancorp Europe et al.**

#### Administrative Panel Decision

**Case No. D2000-1323**

#### 1. The Parties

The complainant is Société des Bains de Mer et du Cercle des Etrangers à Monaco limited (Société des Bains de Mer), Place du Casino, Monte Carlo, MC 98000 Monaco, Principauté de Monaco.

The respondent is I. Bancorp Europe, also named as I.B.LLC, I. Bancorp, montecarlo-casino, monte-carlo-casino, casinosmontecarlo, e-montecarlocasino, domiciled at 2 old Brompton Road, London, SW7 3DQ, Great Britain.

#### 2. The Domain Names and Registrar

The domain names in issue are:

1. montecarlocasino.net,
2. montecarlocasino.org.
3. montecarlo-casino.com,
4. monte-carlo-casino.com,
5. casinosmontecarlo.com,
6. e-montecarlocasino.com

The registrar is: Network Solutions, Inc.

#### 3. Procedural History

The WIPO Arbitration and Mediation Center (the Center) received the complaint on October 4, 2000. The Center's request for Registrar verification was sent on October 10, 2000. The answer was received on October 29, 2000. The Center issued the notification of complaint on October 31, 2000. The Center received the response on November 19, 2000.

#### **4. Factual Background**

##### **A. The Trademark**

The complaint is based on the trademark Casino de Monte-Carlo. The complainant is the owner of the following registered trademark:

Monaco trademark N° 96.17407: Casino de Monte-Carlo, registered in 1996 covering goods and services in classes 3, 9, 12, 14, 16, 18, 28, 34, 35, 38, 39, 41 and 42.

##### **B. The Complaint**

The grounds for the complaint are:

- That the Casino de Monte-Carlo is a renowned trademark as the Principauté de Monaco is inter-alia known worldwide for its casino.
- That the domain names are identical or confusingly similar to the complainant's trademark as they almost completely reproduce the complainant's trademark.
- That the respondent has no rights or legitimate interests in respect of those domain names.
- That the domain names should be considered as having been registered and used in bad faith by the respondent. This should be so as, given the strong notoriety of the complainant's mark and the ease for any Internet user to assess whether or not a registration or use of a domain name is likely to encroach on another's rights, the respondent could not ignore that such a registration was made in fraud of the complainant's rights.
- That by using the domain name for a site directly related to the gaming industry the respondent is attempting to attract Internet users to his website for commercial gain, through the creation of a likelihood of confusion as to the source or affiliation of the site to the complainant and that the domain name is so obviously connected to the complainant and its products that the use by someone with no connection with the complainant suggests opportunistic bad faith.
- That the respondent is trying to create confusion with the complainant's mark and institution as to the affiliation of the respondent's website. In particular, the respondent has included in his website a picture of the inside of the Casino de Monte-Carlo and the following assertion: " we are the only internet company to have the double gaming license from Casino Monte-Carlo and from Las Vegas Casino".
- Finally that, although the respondent did not directly contact the complainant in order to sell him those domain names, those domain names are for sale in a website specialized in the selling of domain names related to the gambling industry.

##### **C. The Respondent**

In its response, the respondent states:

- That the complainant has no world mark and no trademark outside Monaco, which is a very small country.
- That the complainant has not been policing his mark and that therefore it is to be considered that the complainant has abandoned his mark or that the strength of said trademark is diminished, as if there are numerous goods in the market place bearing the alleged mark, purchasers may learn to ignore the "mark" as a source of identification.

- That the term Monte-Carlo is used as a generic connotation of luxury and high living and has been diluted by continual use in commerce by third parties.
- That the respondent operates online gaming websites, which is a business in which the complainant is not engaged. The complainant operates a hotel and casino business that is to be considered as a business altogether distinct from respondent's.
- That respondent has acquired legitimate rights and interests in the domain names through the operation of a Panamanian company and a Netherlands Antilles company.
- That the complainant already has an online presence through the domain names monte-carlo-gambling.com, montecarloresort.com amongst others and that the respondent's behavior in no way prevents the owner of a trademark from reflecting the mark in a corresponding domain name.
- That the photograph on the website montecarlocasino.net does not depict the complainant's casino but is a photograph of the interior of the Palais du grand-duc Vladimir Alexandrovich. The license statement is absolutely accurate, as the respondent does in fact have licenses from its Panamanian company and Netherlands Antilles company.

## 5. Discussion and Findings

### A. Identical or Confusingly Similar Domain Names

The terms Monte-Carlo are identically used in all the domain names and the term casino is identically used as well in all the domain names. The domain names are all almost exact translations of the complainant's trademark.

The addition of letter "e" in domain name 6 at the beginning does not suppress a strong similarity with the complainant's trademark, as "e" is commonly used and understood by all internet users as a designation for products and services connected to this mean of communication.

### B. Rights or Legitimate Interests of Respondent

The panel must make here a general statement. Any rights or legitimate interests in the terms Monte-Carlo, Monaco and Casino are to be examined in respect of those terms used together and not independently. The panel will not examine the protection to be granted to the terms Monte-Carlo alone. Furthermore, the complainant's trademark protects the combination of Casino and Monte-Carlo together, and not these terms isolated. Therefore respondent's effort to stress that there exist many other marks using the terms Monte-Carlo and that complainant has not started administrative or judiciary proceedings against them is irrelevant as those marks refer to Monte-Carlo and not to Casino de Monte-Carlo. The respondent also points out that there exists a Las Vegas based "Monte-Carlo Resort and Casino" and a Monte Carlo Casino in Milwaukee. The panel deems that it cannot rely on those isolated facts as having stopped the complainant to proceed against respondent in the present case, for the abandonment of mark is the result of a willing and constant behavior during some years. However the complainant's failure to police its mark against the Las Vegas-based Monte Carlo Resort and Casino and the Monte Carlo Casino in Milwaukee cannot be held against him, as it does not amount to a willful and constant behavior because any litigation in the U.S.A. might have been unsuccessful in view of the well known reluctance of the American legal system to protect geographical denominations.

The respondent claims that the complainant has no world mark and no trademark outside Monaco, which is a very small country. Article 16.2 of the TRIPs agreement states: "Article 6 bis of the Paris Convention (1967) shall apply *mutatis mutandis* to services. In determining whether a trademark is well known members shall take into account the knowledge of the trademark in the relevant sector of the public, including knowledge in the member concerned which has been obtained as a result of the promotion of the trademark." In the light of this article it can only be considered that the Casino de Monte-Carlo trademark is well known over the world and is protected as such. It is also important to note that the size of a country of origin is not to be considered as relevant, and particularly so in matters regarding Internet and domain names.

The respondent also adds that the complainant has initiated ICANN proceedings against almost every domain name

incorporating the terms Monte-Carlo, but that it has not started such a proceeding against the monte-carlo.com domain name which hosts the Las Vegas-based Monte Carlo Resort and Casino. The panel deems it irrelevant in the light of the above reasoning, as the monte-carlo.com domain name is very different from the litigious domain names since it only uses the terms Monte-Carlo, whether the domain names registered by respondent all use those terms in conjunction with terms associated with the term casino. Most important also is the fact that the panel does not rule on third parties right or wrongful behavior.

The respondent claims that the term Monte-Carlo is used as a generic connotation of luxury and high living and has been diluted by continual use in commerce by third parties. The panel deems this to be also irrelevant as it refers to Monte-Carlo generally and not to Casino de Monte-Carlo.

The respondent claims that it has acquired rights or legitimate interests to the domain name through commercial use of the domains. Yet when buying the domain name, the respondent must have been aware of the possibility that the claimant would file administrative or judiciary proceedings for cyber squatting. This is so amongst other things, as given the strong reputation of the complainant's mark, the respondent could not ignore that such a registration was made in fraud of the complainant's rights. Furthermore, the claims that respondent derives from the very recent incorporation of its Panama and Dutch-Antilles corporations cannot be recognized, for it is well known that many such corporations are often devoid of any important assets and are used as tax vehicles and/or offshore activities not covered by legal protection in the jurisdictions they precisely intend to avoid, even when they are lawfully organized under the corresponding offshore laws. Therefore the panel cannot find any legitimate right or interest in favor of the respondent.

### **C. Domain Names Registered and Used In Bad Faith**

The respondent points out that the photograph on the website montecarlocasino.net does not depict the complainant's casino but is a photograph of the interior of the Palais du grand-duc Vladimir Alexandrovich. If the complainant itself was confused by the photography and was led to believe that it was a photograph of its own resort, then most Internet users would probably be similarly falsely led to believe that it is indeed a photograph of the interior of the Casino de Monte-Carlo. The respondent also states that the license statement on its website is absolutely accurate, as the respondent does in fact have State licenses for its Panamanian company and Netherlands Antilles company. However this statement refers to those companies in such a way that anyone would be led to believe that it refers in fact to the Las Vegas-based Monte Carlo Casino and the complainant Casino de Monte-Carlo. Therefore the complainant is right to claim that respondent created a likelihood of confusion as to the affiliation of this site with its institution and trademark.

The respondent claims that the domain names are used in connection with an online gaming business rather than an actual casino and that the complainant does not provide online gaming/casino services. The respondent fails to see that a website is in itself an actual undertaking. The distribution of goods or services through the Internet is similar to the distribution of the same goods or services through other means. In particular it cannot be considered so different that it should be deemed a different branch of the industry or a different market in terms of unfair competition law.

The respondent claims that there is no risk of consumers' confusion as complainant already has an online presence: casino-monte-carlo.mc and that therefore the consumers are able to distinguish between the complainant and the respondent online presence. Nonetheless, it is highly unlikely that the average Internet user would be able to distinguish two similar lower domain names by their generic/country code top level domain.

Finally the panel notes that to the extent that Claude Levy's (an officer of respondent) deposition is to be taken into account when saying that the sole purpose of putting the domain names for sale was to get an evaluation of one of the respondent's assets, this purpose was not apparent to third parties who could actually bid for those domain names. It is therefore not excluded that the respondent could derive a benefit from the misappropriation of the claimant's trade name. Indeed each Internet user could buy from the site "supernames.com" all the domain names except domain name 1 .montecarlocasino.net. It is also important to note that the respondents in this case and in other cases appear to actually belong to the same entity. In fact the address is the same, they are affiliated with the same companies and their Director, Treasurer and Secretary is the same person, namely Claude Levy. This entity is respondent in other ICANN proceedings (notably in case D-2000-1315; D-2000-1327; [also case D-2000-1328 and D-2000-1326, although here respondent appears at different addresses]) in respect of domain names referring to the Casino de Monte-Carlo. The litigious domain names in those proceedings were also for sale at supernames.com. Thus, there appears to be a pattern of behavior of respondent in registering and selling domain names referring to complainant's trademark. Further respondent claims that the selling of sites is part of its business operations, which consist of acquiring domain names, launching sites and then selling them; yet only two of the litigious domain names in this case were actually used to launch an active website.



## 6. Decision

The panel decides that the domain names are confusingly similar to the complainant's trademark, that the respondent has no rights or legitimate interests in respect of the domain names and that the domain names were registered and are being used in bad faith.

Accordingly, the panel decides that the registration of the domain names:

1. montecarlocasino.net
2. montecarlocasino.org
3. montecarlo-casino.com
4. monte-carlo-casino.com.
5. casinosmontecarlo.com
6. e-montecarlocasino.com

be transferred to the complainant.

François Dessemontet  
Sole Panelist

Dated: January 8, 2001

## **EXHIBIT 2**

CLOSED

**U.S. District Court  
Eastern District of Virginia (Alexandria)  
CIVIL DOCKET FOR CASE #: 1:01-cv-00115-TSE**

Int'l. Bancorp, LLC, et al v. Societe Des Bains De  
Assigned to: District Judge T. S. Ellis, III  
Demand: \$0  
Case in other court: 02-01255  
02-01364  
Cause: 28:2201 Declaratory Judgment

Date Filed: 01/24/2001  
Date Terminated: 03/26/2002  
Jury Demand: None  
Nature of Suit: 890 Other Statutory  
Actions  
Jurisdiction: Federal Question

**Plaintiff**

**International Bancorp, LLC**  
*doing business as*  
I. Bancorp Europe

represented by **James William Pravel**  
Pravel Intellectual Property Law PC  
1800 Diagonal Rd  
Suite 600  
Alexandria, VA 22314  
(703) 549-4114  
Fax: (703) 549-3111  
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Fax: (703) 748-0244  
Email: kholmes@williamsmullen.com  
*TERMINATED: 03/08/2002*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**International Services, Inc.**

represented by **James William Pravel**  
(See above for address)

*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**John Edward Gagliano**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**International Lotteries, LLC**

represented by **James William Pravel**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**John Edward Gagliano**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Las Vegas Sportsbook, Inc.**

represented by **James William Pravel**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**John Edward Gagliano**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Britannia Finance Corporation**

represented by **John Edward Gagliano**

(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Societe Des Bains De Mer Et Du Cercle  
Des Etrangers A Monaco**

represented by **Carl John Nichols**  
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5301 Wisconsin Ave NW  
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*LEAD ATTORNEY*  
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**Jonathan D. Schiller**  
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\*\*NA\*  
(202) 237-2727  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
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**Counter Claimant**

**Societe Des Bains De Mer Et Du Cercle  
Des Etrangers A Monaco**

represented by **Carl John Nichols**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Jonathan D. Schiller**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Defendant**

**International Services, Inc.**

represented by **John Edward Gagliano**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)

*TERMINATED: 03/08/2002*  
*ATTORNEY TO BE NOTICED*

**Counter Defendant**

**International Lotteries, LLC**

represented by **John Edward Gagliano**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
*ATTORNEY TO BE NOTICED*

**Counter Defendant**

**Britannia Finance Corporation**

represented by **John Edward Gagliano**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Defendant**

**International Bancorp, LLC**  
*doing business as*  
I. Bancorp Europe

represented by **John Edward Gagliano**  
(See above for address)  
*TERMINATED: 03/30/2001*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
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**Counter Defendant**

**Las Vegas Sportsbook, Inc.**

represented by **Kathleen Joanna Lynch Holmes**  
(See above for address)  
*TERMINATED: 03/08/2002*  
*LEAD ATTORNEY*  
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**Counter Defendant**

**Claude Levy**

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/24/2001	1	COMPLAINT Filing Fee \$ 150.00 Receipt # 142850 (mcke) (Entered: 01/30/2001)
01/24/2001		SUMMONS(ES) (Org. & 1) issued and givent to atty for service by SPS on deft Societe Des Bains De (mcke) (Entered: 01/30/2001)
02/21/2001	2	Consent Order Extending Time for deft to answer or otherwise respond in this matter shall be on or before 3/15/01 ( signed by Judge T. S. Ellis III ) Copies Mailed: yes (mcke) (Entered: 02/22/2001)
02/21/2001	3	Consent Order to deposit registrar certificate into the registry of the court ( signed by Judge T. S. Ellis III ) Copies Mailed: yes (mcke) (Entered: 02/22/2001)
02/21/2001	4	Registrar Certificate by Int'l. Bancorp, LLC, Int'l. Services, Inc, Int'l. Lotteries, LL, Britannia Fin. Corp., Las Vegas Sportsbook as to MONACOCASINOS.COM, MONTECARLOCASINOS.NET, THECASINOMONTECARLO.COM, THEMONTECARLOCASINO.COM, MONTECARLOCASINO.NET, MONTECARLOCASINO.ORG, (see registrar certificate for additional domain names) (mcke) (Entered: 02/22/2001)
03/05/2001	5	ORDER setting Initial Pretrial Conference for 10:45 4/4/01 Discovery Deadline for 8/10/01 Final Pretrial Conference for 10:20 8/16/01 (see order for details) ( signed by Judge Claude M. Hilton ) Copies Mailed: yes (mcke) (Entered: 03/05/2001)
03/15/2001	6	ANSWER to Complaint and COUNTERCLAIM by Societe Des Bains De (Attorney Carl John Nichols) against Int'l. Bancorp, LLC, Int'l. Services, Inc, Int'l. Lotteries, LL, Britannia Fin. Corp. (Large Pleading) (clerk) (Entered: 03/26/2001)
03/29/2001	7	JOINT Discovery Plan by Int'l. Bancorp, LLC, Int'l. Services, Inc, Int'l. Lotteries, LL, Britannia Fin. Corp., Las Vegas Sportsbook, Societe Des Bains De (mcke) (Entered: 03/29/2001)
03/30/2001	8	ORDER, Bret Alan Samuel Fausett for admission pro hac vice Filing Fee Paid \$ 25.00 Receipt # 144611 ( signed by Judge James C. Cacheris ) Copies Mailed: yes [EOD Date: 4/2/01] (mcke) (Entered: 04/02/2001)
03/30/2001	9	Consent Order Substituting Attorney for pltf and the firms of Hancock Rothert & Bunshoft, LLP and Richards, McGettigan Reilly & West, P.C. and are subistitued as counsel in place of Cohen, Gettings & Dunham, P.C. on behalf of the pltfs. ( signed by Judge James C. Cacheris ) Copies Mailed: yes (mcke) (Entered: 04/02/2001)
04/01/2001	10	ANSWER by Int'l. Bancorp, LLC, Int'l. Services, Inc, Int'l. Lotteries, LL, Las Vegas Sportsbook, Britannia Fin. Corp. to [6-2] counter claim by Societe Des Bains De (mcke) (Entered: 04/05/2001)
04/04/2001		Initial pretrial conference held MJ Buchanan. Appearances: Counsel. Discovery plan - approved. Settlement - not discussed. Notified of settlement conf. with duty Mag. Judge. (mcke) (Entered: 04/05/2001)

## **EXHIBIT 3**





TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant : VICTORIA PARTNERS

Mark : MONTE CARLO in Int. Class 41

Serial No.: 76/284,329

Published : October 19, 2004

MOTION FOR 90 DAY EXTENSION OF TIME  
TO FILE NOTICE OF OPPOSITION

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513



ATTN: TTAB

11-08-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Sir:

The undersigned attorney, on behalf of SOCIÉTÉ ANONYME DES BAINS DE MER ET DU CERCLE DES ETRANGERS À MONACO, requests a ninety day extension of time to file a Notice of Opposition against the above-noted mark. The extension of time, if granted, will extend the deadline for filing a Notice of Opposition, or taking other appropriate action, such as gathering evidence, from November 18, 2004 the current deadline to February 16, 2005.

The potential opposer filed an application to secure protection for its mark, CASINO DE MONTE-CARLO, on May 2, 2002. Such application, which embraces "operating resort and gambling facilities; casino gambling; sports and cultural events, etc. ...", has been accorded S.N. 76/404,532. The date of first use, anywhere in the world, asserted in such application is 1863, and a 1984 date of first use in the United States is also asserted. A country of origin registration under Section 44(e) was made of record in application Serial No. 76/404,532.

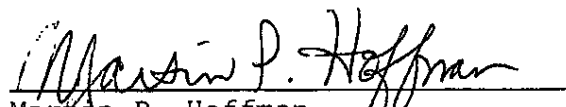
-2-

Prosecution of application S.N. 76/404,532 has been suspended, pending disposition of application S.N. 76/284,329, and significant commercial rights, held by the potential opposer, may be impaired.

The potential opposer has taken other steps to protect its famous mark, CASINO DE MONTE-CARLO. Such efforts are detailed in the decision rendered by the U.S. Court of Appeals for the Fourth Circuit on May 19, 2003. The case in point is entitled International Bancorp LLC v. Societe Anonyme de Bains de Mer et du Cercle des Etrangers a Monaco, reported at 66 USPQ 1705.

Attorney for potential applicant has set forth "good cause" for granting the requested ninety day extension of time to file a Notice of Opposition. More specifically, the ninety day extension period will enable the potential opposer additional time to obtain the file history of the published application (which has been unavailable for three weeks due to relocation of the paper files of the Trademark Office to Alexandria), investigate the usage of its own famous mark in the United States, and reach a reasoned decision as to whether an Opposition is warranted.

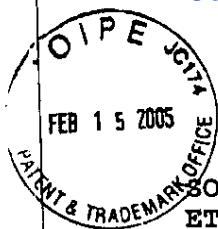
Respectfully submitted,

  
Martin P. Hoffman  
Attorney for Potential Opposer  
HOFFMAN, WASSON & GITLER, PC  
2461 South Clark Street  
Crystal Center 2, Suite 522  
Arlington, VA 22202  
(703) 415-0100

November 8, 2004

Attorney's Docket: T-7783.Ext/bh

## **EXHIBIT 4**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SOCIETE ANONYME DES BAINES DE MER )  
ET DU CERCLE DES ETRANGERS A MONACO)

Opposer, )

vs. )

VICTORIA PARTNERS )

Applicant. )

Published in Official Gazette )  
of October 19, 2004 )

Opposition No. )

Application Serial )  
No. 76/284,329 )

NOTICE OF OPPOSITION

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Sir:

Opposer, SOCIETE ANONYME DES BAINES DE MER ET DU CERCLE DES ETRANGERS A MONACO, a corporation organized under the laws of Monaco, located and doing business at Place du Casino, MC 98000 Monte-Carlo, Principality of Monaco, believes that it will be damaged by registration of the mark, MONTE CARLO, presented in pending trademark application Serial No. 76/284,329, and consequently opposes same.

Application S.N. 76/284,329 is directed to the mark, MONTE CARLO, as applied to casino services, namely operation of a full service casino in International Class 41.

02/23/2005 KGBIBBONS 00000099 082455 76284329

01 FC:6402

100.00 DA

200.00 OP

GROUND OF OPPOSITION

1. Opposer owns, and operates, historic properties in Monte Carlo, Monaco, including several resort and casino facilities. One of its properties is the internationally known casino that has operated under the CASINO DE MONTE CARLO trademark since 1863. The mark is registered in Monaco, and counterpart U.S. trademark application Serial No. 76/404,532, filed May 2, 2002, is presently pending in the U.S. Trademark Office.

1 1000 0000 0000 0000 0000 0000 0000 0000 0000

02-15-2005

2. Opposer has promoted, and presently promotes its casino, bearing the mark, CASINO DE MONACO, along with its other properties, on an international scale. Since 1984, Opposer has maintained an office in New York to promote its properties to North American customers and clients, with particular emphasis upon the U.S. market.

3. Opposer's office in New York is staffed with four employees, and has an annual budget of \$1,000,000 for promotional efforts.

4. Opposer's promotions within the United States include trade show participation, advertising campaigns, charity partnerships, direct mail solicitation, telephone marketing, solicitation of media coverage, and maintenance of a web site discussing the diverse services rendered under the mark, CASINO DE MONTE CARLO.

5. Opposer's reputation has been enhanced, over the past several years, by television programs and movies set in Monaco and featuring story lines about the entertainment and casino services rendered by CASINO DE MONTE CARLO. Articles appearing in newspapers, magazines, travel guides, and other periodicals have discussed the merits of CASINO DE MONTE CARLO, and have contributed to the celebrity of such casino. U.S. visitors to Monaco have returned home to tell friends and acquaintances about such casino over the past several years.

6. Opposer initiated procedures to police its mark, CASINO DE MONTE CARLO, as unauthorized users, and imitators, sought to capitalize on the fame and good will associated with such mark in the U.S. marketplace. The policing efforts have led to lawsuits in U.S. courts to enforce Opposer's rights in its mark.

7. Opposer's use of its mark, CASINO DE MONTE CARLO, has been continuous and on-going in nature, and pre-dates

applicant's July 12, 2001 filing date by several years. Furthermore, Opposer's use of its mark, CASINO DE MONTE CARLO, in foreign commerce between Monaco and the United States pre-dates Applicant's alleged date of first use, i.e., May 1, 1995, by several years.

8. Opposer's continuous use of its mark, CASINO DE MONTE CARLO, its extensive promotional efforts, and the excellence of services rendered in conjunction with its mark, have given rise to world-wide recognition of such famous mark. To illustrate Opposer's casino is mentioned in the description of Monte Carlo, set forth in Merriam-Webster's Geographical Dictionary, Third Edition, 1997.

9. In view of the similarity of the respective marks, and the related nature of the casino services of the respective parties, in sight, sound and commercial impression, it is readily apparent that Applicant's mark, MONTE CARLO, so resembles Opposer's mark, CASINO DE MONTE CARLO, as to be likely to cause confusion, or to cause mistake, or to deceive.

10. Furthermore, casino services performed under Opposer's mark, CASINO DE MONTE CARLO are directed to the same consumers, as those envisioned by Applicant for its similar casino services rendered under the mark, MONTE CARLO. Consumers may assume that Opposer has sponsored, licensed, or otherwise approved of Applicant's mark and the related casino services; such assumption is incorrect.

11. If Applicant were to be granted a registration for MONTE CARLO, in International Class 41, such registration would negatively impact upon Opposer's pending application Serial No. 76/284,329, filed May 2, 2002. Furthermore, Opposer's on-going efforts to broaden and/or expand the services rendered in conjunction with CASINO DE MONTE CARLO, which extend beyond casino services, would be hampered or inhibited due to the potential conflict with Applicant's mark.


12. If Applicant were to be granted a registration for MONTE CARLO, in International Class 41, the registration would constitute a prima facie exclusive right to use its mark. Such registration would become a source of injury and damage to the Opposer.

**RELIEF SOUGHT**

**WHEREFOR**, in view of the grounds for opposition noted above, and in view of the potential damage to Opposer's business and commercial reputation, Opposer urges that application Serial No. 76/284,329 be rejected, that no registration thereon be granted for the mark MONTE CARLO in International Class 41, and that this opposition be sustained in favor of Opposer.

Our check #23770, in the amount of \$200.00, is enclosed to pay the fee for an Opposition in one class, namely, International Class 41. If any additional fees fall due and owing, such fees should be charged against Deposit Account 08-2455.

Respectfully submitted,

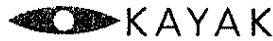
by   
Martin P. Hoffman, Reg. 22,261  
Counsel for  
**SOCIETE ANONYME DES BAINES DE MER  
ET DU CERCLE DES ETRANGERS  
A MONACO, Opposer**  
HOFFMAN, WASSON & GITLER, PC  
2461 South Clark Street  
Crystal Center 2 - Suite 522  
Arlington, VA 22202  
703.415.0100

February 10, 2005

Attorney's Docket: TO-7783.NOO/cat

## **EXHIBIT 5**





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#### Flight Times

**Depart** ☒ takeoff ☐ landing  
 takeoff Sat 6:00a - 9:00p

**Return** ☒ takeoff ☐ landing  
 takeoff Sat 1:00a - Sun 12:00a

#### Airports

☒ Depart/Return, same airports  
**Paris Airports** (map) Best  
☒ (CDG) Ch. De Gaulle \$1453  
☒ (ORY) Orly \$1995

**New York Airports** (map) Best  
☒ (EWR) Newark \$1582  
☒ (JFK) John F Kennedy Intl \$1453  
☒ (LGA) LaGuardia \$1502

#### Layover Duration

0h 35m to 11h 30m

Show Layover Airports (33)

#### Trip Duration

7h 00m to 20h 20m

Price ▼

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	orbitz.com: \$2008			
<b>\$1807</b> select	Air France	CDG 6:50p JFK 10:50p	JFK 8:50p CDG 11:50a	0 (8h 00m) 0 (7h 00m)
	cheaptickets.com: \$1807 orbitz.com: \$1810			
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<b>\$1641</b> select	Air France	CDG 8:45p JFK 10:50p	JFK 10:50p CDG 11:50a	0 (8h 05m) 0 (7h 00m)
	cheaptickets.com: \$1641 orbitz.com: \$1644			
<b>\$1659</b> select	Delta / Air France	CDG 8:45p JFK 10:50p	JFK 10:50p CDG 11:50a	0 (8h 05m) 0 (7h 00m)
	orbitz.com: \$1659			
<b>\$1659</b> select	Air France / Delta	CDG 8:45p JFK 10:50p	JFK 10:50p CDG 11:50a	0 (8h 05m) 0 (7h 00m)
	orbitz.com: \$1659			
<b>\$1672</b> select	Delta	CDG 8:45p JFK 10:50p	JFK 10:50p CDG 11:50a	0 (8h 05m) 0 (7h 00m)
	cheaptickets.com: \$1672 orbitz.com: \$1675			
<b>\$1810</b> select	Air France	CDG 6:50p JFK 1:00a	JFK 8:50p CDG 2:10p	0 (8h 00m) 0 (7h 10m)
	orbitz.com: \$1810			
<b>\$1838</b> select	Delta	CDG 6:50p JFK 1:00a	JFK 8:50p CDG 2:10p	0 (8h 00m) 0 (7h 10m)
	cheaptickets.com: \$1838			
<b>\$1573</b> select	Air France	CDG 9:00a JFK 10:50p	JFK 11:15a CDG 11:50a	0 (8h 15m) 0 (7h 00m)
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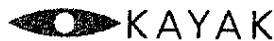


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**Airports**

**Paris Airports** (map) Best

(CDG) Ch. De Gaulle \$1815

**Las Vegas Airports** (map) Best

(LAS) McCarran \$1815

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<b>\$2215</b> select	Delta	CDG 11:45a LAS 1:44p	LAS 5:54p CDG 11:10a	1 (15h 09m) 1 (12h 26m)
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<b>\$2367</b> select	American Airlines	CDG 11:40a LAS 11:05a	LAS 5:25p CDG 9:40a	1 (14h 45m) 1 (13h 35m)
AA.com: \$2367 cheaptickets.com: \$2377				
<b>\$2215</b> select	Delta	CDG 11:45a LAS 11:40a	LAS 5:54p CDG 9:55a	1 (15h 09m) 1 (13h 15m)
cheaptickets.com: \$2215				
<b>\$2367</b> select	American Airlines	CDG 11:40a LAS 10:00a	LAS 5:25p CDG 8:40a	1 (14h 45m) 1 (13h 40m)
AA.com: \$2367				
<b>\$2246</b> select	Continental	CDG 9:55a LAS 8:39a	LAS 3:34p CDG 7:45a	1 (14h 39m) 1 (14h 06m)
continental.com: \$2246				
<b>\$2209</b> select	Delta	CDG 11:45a LAS 6:55a	LAS 5:54p CDG 6:05a	1 (15h 09m) 1 (14h 10m)
cheaptickets.com: \$2209				
<b>\$2553</b> select	United	CDG 11:10a LAS 11:10a	LAS 6:26p CDG 9:20a	1 (16h 16m) 1 (13h 10m)
united.com: \$2553 cheaptickets.com: \$2562				
<b>\$2771</b> select	Lufthansa	CDG 11:10a LAS 11:10a	LAS 6:26p CDG 9:20a	1 (16h 16m) 1 (13h 10m)
cheaptickets.com: \$2771				
<b>\$2336</b> select	Multiple Airlines	CDG 1:45p LAS 10:40a	LAS 8:08p CDG 9:45a	1 (15h 23m) 1 (14h 05m)
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## **EXHIBIT 7**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

SOCIETE DES BAINS DE MER ET DU :  
CERCLE DES ETRANGERS A :  
MONACO, :

Plaintiff, :

vs. :

MGM MIRAGE AND VICTORIA :  
PARTNERS, L.P. :

Defendants. :

-----x

**ECF Case**

Case No. 08-CV-03157(HB)

**NOTICE OF RULE 30(b)(6)  
DEPOSITION OF MGM MIRAGE**

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Société des Bains de Mer et du Cercle des Etrangers à Monaco (“SBM”), through its attorneys Quinn Emanuel Urquhart Oliver & Hedges, LLP, will take the deposition upon oral examination under oath of the person(s) designated by Defendant MGM Mirage on \_\_\_\_\_, 2008 at 10 a.m., at the offices of Quinn Emanuel Urquhart Oliver & Hedges, LLP, 51 Madison Avenue, New York, New York 10010, or at such other time and place as the parties may agree upon. If the deposition is not completed on the agreed day, it will continue until completed with such adjournment as to time and place as may be necessary. The deposition will be taken before a qualified notary public or before some other officer authorized by law to administer oaths. The deposition will be recorded by stenographic, video and/or audio means.

The witness(es) designed by MGM Mirage shall be the agent(s), representative(s), and/or employee(s) with the most knowledge of the subjects listed in Schedule A hereto.

DATED: New York, New York  
\_\_\_\_\_, 2008

QUINN EMANUEL URQUHART OLIVER &  
HEDGES, LLP

By: \_\_\_\_\_  
Robert L. Raskopf  
robertraskopf@quinnemanuel.com  
Claudia T. Bogdanos  
claudiabogdanos@quinnemanuel.com  
Jonathan A. Scharf  
jonathanscharf@quinnemanuel.com

51 Madison Avenue, 22nd Floor  
New York, New York 10010  
Tel: (212) 849-7000  
Fax: (212) 849-7100

ATTORNEYS FOR SOCIETE DES BAINS  
DE MER ET DU CERCLE DES  
ETRANGERS A MONACO

*Of Counsel:*

QUINN EMANUEL URQUHART OLIVER  
& HEDGES, LLP  
George R. Hedges  
865 S. Figueroa Street, 10<sup>th</sup> Floor  
Los Angeles, California 90017  
Tel: (213) 443-3000  
Fax: (213) 443-3100



**SCHEDULE A**

**DEFINITIONS**

1. “All” and “each” shall be construed as all and each, respectively.
2. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. “Affiliate” shall mean any natural person or any business, entity, organization, or association who has been approved by Defendants to promote the Monte Carlo Resort & Casino on behalf of Defendants.
4. “Casino de Monte-Carlo” shall mean the resort and casino operated by SBM in Monaco.
5. “CASINO DE MONTE-CARLO” shall mean the trademark that is the subject of U.S. trademark application Serial No. 77/329,593, and any mark including the term “CASINO DE MONTE-CARLO” used by SBM.
6. “Communication” shall mean the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
7. “Concerning,” “concern,” “regarding,” or “relating to” shall mean in whole or in part concerning, relating to, referring to, describing, evidencing, containing, constituting, reflecting, discussing, or in any way legally, logically, or factually connected with the matter discussed.
8. “Correspondence” shall include all written communications whether made in electronic format, or paper or otherwise.

9. “Customer” shall mean any natural person or any business, entity, organization, or association who consists of the actual or potential visitors to the Monte Carlo Resort & Casino.

10. “Defendants” shall mean MGM Mirage and Victoria Partners, L.P., collectively.

11. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy is a separate document within the meaning of this term.

12. “MGM Mirage” shall mean MGM Mirage and all of its subsidiaries, and their officers, employees, representatives, and all other persons acting or purporting to act on their behalf.

13. “MGM Mirage website” shall mean the website located at [www.mgmmirage.com](http://www.mgmmirage.com) and all sets of interconnected webpages prepared and maintained by Defendants or any of Defendants’ subsidiaries in connection therewith.

14. “MGM Mirage Affiliate Program website” shall mean the website located at [www.mgmmirageaffiliates.com](http://www.mgmmirageaffiliates.com) and all sets of interconnected webpages prepared and maintained by Defendants or any of Defendants’ subsidiaries in connection therewith.

15. “MONTE CARLO” shall mean the trademark that is the subject of U.S. trademark Application Serial No. 76/284,329, and any designation including the term “MONTE CARLO” used by Defendants in connection with their business within the tourism, resort and casino industry.

16. “Monte Carlo Resort & Casino” shall mean the resort and casino operated by Defendants in Las Vegas, Nevada.

17. “Monte Carlo Resort & Casino website” shall mean the website located at [www.montecarlo.com](http://www.montecarlo.com) and all sets of interconnected webpages prepared and maintained by Defendants or any of Defendants’ subsidiaries in connection therewith.

18. “Person” shall mean any natural person or any business, legal or governmental entity or association.

19. “SBM” shall mean Société des Bains de Mer et du Cercle des Etrangers à Monaco and all of its subsidiaries, and their officers, employees, representatives, and all other persons acting or purporting to act on their behalf.

20. “Victoria Partners” shall mean Victoria Partners, L.P. and all of its subsidiaries, and their officers, employees, representatives, and all other persons acting or purporting to act on their behalf.

### TOPICS

1. Advertising, promotions, and any other marketing activities directed, distributed, or relating to customers, actual or potential, residing in New York.

2. Advertising, promotions, and any other marketing activities directed to affiliates, actual or potential, residing in New York.

3. Advertisements, marketing materials, promotional materials, sales presentations and public relations materials, including, without limitation, press releases and other communications to the public, relating to the Monte Carlo Resort & Casino distributed in New York.

4. Agreements, affiliations, or any other relationships with travel agents located in New York.

5. The number of New York residents who have booked a vacation to the Monte Carlo Resort & Casino through the Monte Carlo Resort & Casino or MGM Mirage websites.

6. The number of New York residents that have enrolled in MGM Mirage Vacations, Players Club, or any other program, or created a Monte Carlo Guestbook Account through the Monte Carlo Resort & Casino or MGM Mirage websites.

7. The number of New York residents who have purchased casino credit on the Monte Carlo Resort & Casino website through an online application for Marker Signing Privileges.

8. Defendants' sales and revenues to date from the ownership or operation of the Monte Carlo Resort & Casino derived from interstate commerce, including commerce conducted within New York.

9. The number, by year, of New York residents who have purchased casino, resort, or other services from Defendants.

10. The annual revenues derived from New York residents who have purchased casino, resort, or other services from Defendants.

11. Defendants' sales and revenues to date derived from or attributable to promotion of the Monte Carlo Resort & Casino by affiliates residing in the United States, including Affiliates residing in New York.

DATED: New York, New York  
\_\_\_\_\_, 2008

QUINN EMANUEL URQUHART OLIVER &  
HEDGES, LLP

By: \_\_\_\_\_  
Robert L. Raskopf  
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ATTORNEYS FOR SOCIETE DES BAINS  
DE MER ET DU CERCLE DES  
ETRANGERS A MONACO

*Of Counsel:*

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865 S. Figueroa Street, 10<sup>th</sup> Floor  
Los Angeles, California 90017  
Tel: (213) 443-3000  
Fax: (213) 443-3100

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

SOCIETE DES BAINS DE MER ET DU :  
CERCLE DES ETRANGERS A :  
MONACO, :

**ECF Case**

Case No. 08-CV-03157(HB)

Plaintiff, :

vs. :

MGM MIRAGE AND VICTORIA :  
PARTNERS, L.P. :

**NOTICE OF RULE 30(b)(6)  
DEPOSITION OF VICTORIA  
PARTNERS, LP**

Defendants. :

-----x

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Société des Bains de Mer et du Cercle des Etrangers à Monaco (“SBM”), through its attorneys Quinn Emanuel Urquhart Oliver & Hedges, LLP, will take the deposition upon oral examination under oath of the person(s) designated by Defendant Victoria Partners, LP (“Victoria Partners”) on \_\_\_\_\_, 2008 at 10 a.m., at the offices of Quinn Emanuel Urquhart Oliver & Hedges, LLP, 51 Madison Avenue, New York, New York 10010, or at such other time and place as the parties may agree upon. If the deposition is not completed on the agreed day, it will continue until completed with such adjournment as to time and place as may be necessary. The deposition will be taken before a qualified notary public or before some other officer authorized by law to administer oaths. The deposition will be recorded by stenographic, video and/or audio means.

The witness(es) designed by Victoria Partners shall be the agent(s), representative(s), and/or employee(s) with the most knowledge of the subjects listed in Schedule A hereto.

DATED: New York, New York  
\_\_\_\_\_, 2008

QUINN EMANUEL URQUHART OLIVER &  
HEDGES, LLP

By: \_\_\_\_\_  
Robert L. Raskopf  
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**SCHEDULE A**

**DEFINITIONS**

1. “All” and “each” shall be construed as all and each, respectively.
2. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
3. “Affiliate” shall mean any natural person or any business, entity, organization, or association who has been approved by Defendants to promote the Monte Carlo Resort & Casino on behalf of Defendants.
4. “Casino de Monte-Carlo” shall mean the resort and casino operated by SBM in Monaco.
5. “CASINO DE MONTE-CARLO” shall mean the trademark that is the subject of U.S. trademark application Serial No. 77/329,593, and any mark including the term “CASINO DE MONTE-CARLO” used by SBM.
6. “Communication” shall mean the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
7. “Concerning,” “concern,” “regarding,” or “relating to” shall mean in whole or in part concerning, relating to, referring to, describing, evidencing, containing, constituting, reflecting, discussing, or in any way legally, logically, or factually connected with the matter discussed.
8. “Correspondence” shall include all written communications whether made in electronic format, or paper or otherwise.



9. “Customer” shall mean any natural person or any business, entity, organization, or association who consists of the actual or potential visitors to the Monte Carlo Resort & Casino.

10. “Defendants” shall mean MGM Mirage and Victoria Partners, L.P., collectively.

11. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy is a separate document within the meaning of this term.

12. “MGM Mirage” shall mean MGM Mirage and all of its subsidiaries, and their officers, employees, representatives, and all other persons acting or purporting to act on their behalf.

13. “MGM Mirage website” shall mean the website located at [www.mgmmirage.com](http://www.mgmmirage.com) and all sets of interconnected webpages prepared and maintained by Defendants or any of Defendants’ subsidiaries in connection therewith.

14. “MGM Mirage Affiliate Program website” shall mean the website located at [www.mgmmirageaffiliates.com](http://www.mgmmirageaffiliates.com) and all sets of interconnected webpages prepared and maintained by Defendants or any of Defendants’ subsidiaries in connection therewith.

15. “MONTE CARLO” shall mean the trademark that is the subject of U.S. trademark Application Serial No. 76/284,329, and any designation including the term “MONTE CARLO” used by Defendants in connection with their business within the tourism, resort and casino industry.

16. “Monte Carlo Resort & Casino” shall mean the resort and casino operated by Defendants in Las Vegas, Nevada.

17. “Monte Carlo Resort & Casino website” shall mean the website located at [www.montecarlo.com](http://www.montecarlo.com) and all sets of interconnected webpages prepared and maintained by Defendants or any of Defendants’ subsidiaries in connection therewith.

18. “Person” shall mean any natural person or any business, legal or governmental entity or association.

19. “SBM” shall mean Société des Bains de Mer et du Cercle des Etrangers à Monaco and all of its subsidiaries, and their officers, employees, representatives, and all other persons acting or purporting to act on their behalf.

20. “Victoria Partners” shall mean Victoria Partners, L.P. and all of its subsidiaries, and their officers, employees, representatives, and all other persons acting or purporting to act on their behalf.

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## **EXHIBIT 8**



Michael Levick <

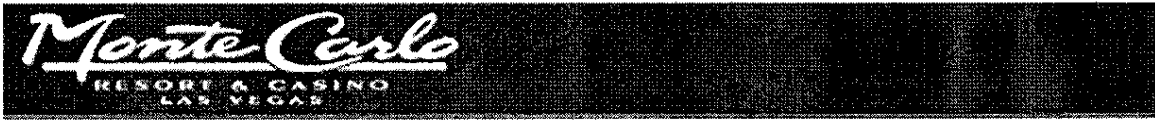
@gmail.com>

## Thank you for signing the Monte Carlo Guestbook

Monte Carlo Las Vegas <MonteCarlo@montecarlo.mgg01.net>

Tue, May 27, 2008 at 2:47 PM

To: @gmail.com



Welcome back...

Thank you for creating a Guestbook Account at MonteCarlo.com. Before receiving your special offers you must first activate your account.

[Click here to activate your account.](#)

If you have received this email in error, please ignore this message.

Monte Carlo Resort & Casino  
3770 Las Vegas Boulevard South  
Las Vegas NV 89109

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## **EXHIBIT 9**



Michael Levick <

@gmail.com>

## Get Ready for a Summer to Remember at Monte Carlo!

Monte Carlo Las Vegas <MonteCarlo@montecarlo.mgg01.net>

Wed, Jun 11, 2008 at 9:15 PM

To: Michael Levick <

@gmail.com>

Having trouble viewing the message below? View an alternate version here.



### ACT LIKE YOU OWN IT

**June 5 – September 12, 2008**

Discover a Monte Carlo like you've never seen at a price you won't believe. Enjoy.

- \$20 Dining Credit
- \$20 Spa Credit
- Complimentary Golf Rentals with Unlimited Golf Play
- 2 Complimentary Spa Passes
- \$10 Slot **FREE PLAY**
- Food Court Coupons

Monte Carlo Gift Cards now available.



Call 800.395.0773 and mention **SNOW CONE** offer

[Click here to book online](#) and receive an additional **\$10 OFF** per night.



# BRAND

## STEAKHOUSE

A RARE STEAKHOUSE... WELL DONE. NOW OPEN.

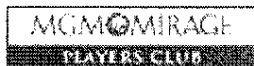
Offer subject to availability. Two night minimum stay required. Standard deluxe room offer only. Offer completely transferable. Rate is per room, per night based on single or double occupancy. Inclusions are per package, per stay and have no cash value. A valid credit card must be applied to the room account on arrival in order to redeem the inclusions. Dining credit not valid at Andre's. Golf inclusions are per person and valid at Desert Pines or Royal Links Golf Courses

ONLY, based on availability; replay round cannot be booked in advance. You must provide a valid Monte Carlo

Confirmation number for golf reservations. Offer is only valid with purchase of one round of golf on the day of your scheduled tee time. Call 888-397-2499 and mention offer code CALLAWAY to book your tee time.

\$20 Spa credit is based on availability, valid with purchase of \$100 or more. Spa admission valid for facilities only, no services (Sunday-Thursday). Receive voucher at check-in to receive \$10 slot *FREE PLAY*® redeemable at Monte Carlo Players Club ONLY. Blackout dates apply. Not valid on holidays, special events, company meetings, conventions or group bookings. Offer valid now through and including September 12, 2008. Offer may be modified

or discontinued without notice. Management reserves all rights. Must be 21 years or older. Monte Carlo endorses responsible gaming. If you or someone you know has a problem gaming responsibly, please call the 24-hour Gamblers HelpLine at 800.522.4700. ©2008 MGM MIRAGE® All rights reserved.



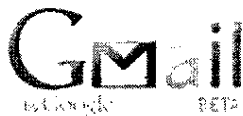
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(not bulk or junk folders), please add [MonteCarlo@montecarlo.mgg01.net](mailto:MonteCarlo@montecarlo.mgg01.net)  
to your address book.

Monte Carlo Resort & Casino  
3770 Las Vegas Boulevard South  
Las Vegas, NV 89109

## **EXHIBIT 10**



Michael Levick &lt;

@gmail.com&gt;

## Celebrate 4th of July at Monte Carlo

Monte Carlo Las Vegas &lt;MonteCarlo@montecarlo.mgg01.net&gt;

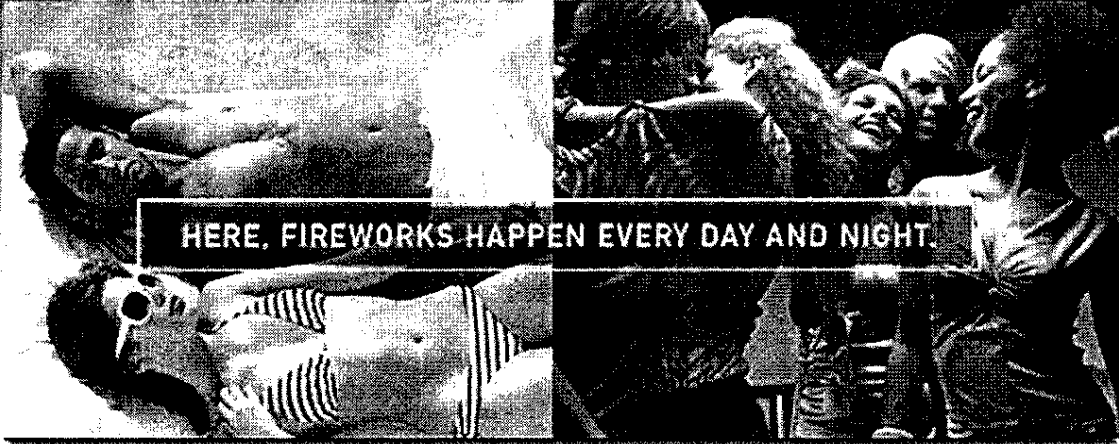
Tue, Jun 24, 2008 at 2:55 PM

To: Michael Levick &lt;

@gmail.com&gt;

Having trouble viewing the message below? View an alternate version here.

ENTERTAINMENT | SPA | DINING



HERE, FIREWORKS HAPPEN EVERY DAY AND NIGHT.

# Monte Carlo

ACT LIKE YOU OWN IT

June 30 – July 6, 2008

Make Monte Carlo your 4th of July Getaway.

What better place to celebrate freedom than at the one place where you can truly act like you own it—Monte Carlo Resort and Casino!

- 2 Complimentary Buffet Passes
- 2 Complimentary Spa Passes
- \$10 Slot *FREE PLAY*

Monte Carlo Gift Cards Now Available

Don't miss your chance to commemorate the 4th of July in style. Visit [montecarlo.com](http://montecarlo.com).

Call 888.395.0776 and mention FIREWORKS offer

Click here to book online and receive an additional \$10 OFF per night.

**BRAND**  
STEAKHOUSE  
A RARE STEAKHOUSE... WELL DONE.

rates as low as  
**\$69.95**  
per night

\*Offer subject to availability. Two night minimum stay required. Standard deluxe room offer only. Offer completely transferable. Rate is per room, per night based on single or double occupancy. Inclusions are per package, per stay and have no cash value. A valid credit card must be applied to the room account on arrival in order to redeem the inclusions.

Dining credit valid at Monte Carlo Buffet only. Buffet charges must be applied to the guest folio and will be credited upon check-out. Spa admission valid for facilities only, no services (Sunday-Thursday). Receive voucher at check-in to receive \$10 slot *FREE PLAY*® redeemable at Monte Carlo Players Club ONLY. Blackout dates apply. Not valid for special events, company meetings, conventions or group bookings. Offer valid June 30, 2008 through and including July 6, 2008. Offer may be modified or discontinued without notice. Management reserves all rights. Must be 21 years or older. Monte Carlo endorses responsible gaming. If you or someone you know has a problem gaming responsibly, please call the 24-hour Gamblers HelpLine at 800.522.4700.

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This e-mail was sent to you by Monte Carlo Resort and Casino. To ensure delivery to your inbox (not bulk or junk folders), please add [MonteCarlo@montecarlo.mgg01.net](mailto:MonteCarlo@montecarlo.mgg01.net) to your address book.

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